

★FILED★

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK
2018 JUN 19 PM 8:33

MARIO H. CAPOGROSSO,

Plaintiff

-against-

CLERK
U.S. DISTRICT COURT
E.D.N.Y.
MAILED 10:00 PM

CV18-2710

**AFFIRMATION IN
SUPPORT OF
MOTION TO DISMISS**

ALAN GELBSTEIN, in his official and individual capacity;
BOSHRA VAHDATLAMAS, (also known as BUSHRA VAHDAT) in her official and individual capacity;
IDA TRASCHEN, in her official and individual capacity;
ELIZABETH PRICKETT-MORGAN, in her official and individual capacity;
JEAN FLANAGAN, in her official and individual capacity;
VINCENT PALMIERI, in his official and individual capacity;
DANIELLE CALVO, in her official and individual capacity;
SADIQ TAHIR, in his individual capacity;
PEC GROUP OF NY, INC.;
DAVID SMART, in his individual capacity;
JOHN AND JANE DOE.

Defendants

I, Mario H. Capogrosso, affirm under penalty of perjury that:

1.I, Mario H. Capogrosso, am the Plaintiff in the above entitled action, and respectfully move this Court to issue an order dismissing the Defendant's Sadiq Tahir's counterclaims in their entirety and grant all other relief as asked for, including sanctions, and all other relief as the Court deems appropriate.

2. The reason I am entitled to the relief I seek is the following

a) Defendant's Counterclaims fail to state a cause of action under F.R.C.P.

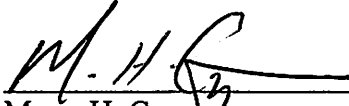
12(b)(6) because it fails to state a claim upon which relief may be granted.

- b) Defendant's Counterclaim for Harassment fail to state a claim for Harassment.
- c) Defendant's Counterclaim for Harassment is time barred.
- d) The Court has no subject matter jurisdiction with respect to Defendant's Counterclaims pursuant to F.R.C.P. Rule 12(b)(1) because federal courts have no jurisdiction over Defendant's frivolous claim.
- e) The Court has no personal jurisdiction over Plaintiff with respect to Defendant's pursuant to F.R.C.P. Rule 12(b)(2).
- f) Defendant's Counterclaims fail to sufficiently state a claim in compliance F.R.C.P. Rule 8(a).
- g) Defendant has made knowingly false allegations and frivolous legal claims without evidentiary support.
- h) Defendant's Counterclaims are not sufficiently pled pursuant to F.R.C.P. Rule Civil Procedure 11(a).
- i) Defendant's counterclaims have no factual basis and evidentiary support.
- j) Plaintiff has not harassed counter claiming Defendant.
- k) Plaintiff has been expelled from the practice of law in the Department of Motor Vehicles (DMV) Traffic Violations Bureau as of May 11, 2015 in part due to actions and malfeasance of the Defendant and therefore Plaintiff's Complaint is not frivolous.

WHEREFORE, I respectfully request that the Court grant this motion to dismiss Defendant Sadiq Tahir's counterclaims with prejudice in their entirety as well as such other relief as may be just and proper.

I declare under penalty of perjury that the foregoing is true and accurate.

Dated; June 18, 2018
Westchester, New York



Mario H. Capogrosso
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